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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 09/903,894 | 07/12/2001 | Junichi Kawahara | P/1231-13 | 2015 |
| 2352 | 7590 | 07/17/2006 | EXAMINER | |
| OSTROLENK FABER GERB & SOFFEN 1180 AVENUE OF THE AMERICAS NEW YORK, NY 100368403 | | | AKINTOLA, OLABODE | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3624 | |
| DATE MAILED: 07/17/2006 | | | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 09/903,894 | KAWAHARA, JUNICHI | |
| | Examiner | Art Unit | |
| | Olabode Akintola | 3624 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 July 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>12/11/02;9/30/02</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

35 U.S.C. 112, first paragraph, requires the specification to be written in "full, clear, concise, and exact terms." The specification is replete with terms which are not clear, concise and exact. The specification should be revised carefully in order to comply with 35 U.S.C. 112, first paragraph. Example of some unclear, inexact or verbose terms used in the specification is: "but troubles and labors of grave visiting by visitors (for example, posterity) are not a little regularly".

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Particularly in claims 1-19, it is unclear what "manner icons", "one of manners", "manner-content-selection", "vicarious-execution...." mean.

For the purpose of examining, Examiner interprets these terms or claims as best understood.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 15-19 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims are directed to a computer program per se or data structure of a computer or software and therefore not statutory under 35 U.S. C. 101. This is exemplified in *In re Warmerdam* 31 USPQ2d 1754 where the rejection of a claim to a disembodied data structure was affirmed.

Thus a claim to a data structure, per se, or other functional descriptive material, including computer programs, per se, is not patent eligible subject matter.

Functional descriptive material claimed in combination with an appropriate computer readable medium to enable the functionality to be realized is patent eligible subject matter if it is capable of producing a useful, concrete and tangible result when used in the computer system. Compare *Warmerdam* to *In re Lowry* 32 USPQ2d 1031 where a memory with a data structure that increased computing efficiency was patentable.

The computer readable medium loaded with a computer program and in association with a computer provides the functional descriptive material in usable form to permit the functionality to be realized with the computer. A program product which does not explicitly include such a medium, a program per se, a signal or other type of transmission media that fails to include the hardware necessary to realize the functionality (e.g., a transmitter or a receiver), and a piece of

paper with the functional descriptive material written on it are all examples of media which are not believed to enable the functionality to be realized with the computer.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-19 are rejected under 35 U.S.C. 102(e) as being anticipated by Mindrum (U.S. Patent No. 6340978).

Re claims 1-4: Mindrum teaches a virtual-grave-visiting method comprising the steps of: storing gravestone images to a virtual-graveyard server; accessing said virtual-graveyard server from a visitor terminal via the Internet; transmitting a grave-visiting page containing a desired gravestone image and a plurality of manner icons from said virtual-graveyard server to said visitor terminal via the Internet (Fig. 10, col. 2, lines 28-30); selecting one of manners for grave visiting by clicking one of manner icons on said grave-visiting page; transmitting a manner-content-selection page containing a plurality of manner-content-select icons to said visitor terminal via the Internet when one of manner icons is clicked on said grave-visiting page; selecting one of manner contents for grave visiting by clicking one of manner-content-select

icons on said manner-content-selection page (col. 2, lines 21-23); transmitting one or more manner applets corresponding to said selected manner content for grave visiting from said virtual-graveyard server to said visitor terminal via the Internet; and running said transmitted manner applets on said grave-visiting page by said visitor terminal (col. 2, lines 36-41; col. 4, lines 13-23).

Re claim 5, 8, 13 and 19: Mindrum teaches the steps of: accounting entrance fee on the basis of the transmission of said grave-visiting page; and accounting manner fees on the basis of the transmission of said manner applets (col. 13, lines 29-31).

Re claims 6-7, 9-12 and 14-18: Mindrum teaches a virtual-grave-visiting system and server comprising: a virtual-graveyard server connected to the Internet; a customer database connected to said virtual-graveyard server (Figs. 8 and 10), said customer database which stores information of registered customers and the decedent files recording pictures, movies and/or voices of the decedent worshiped by graves (col. 4, lines 24-33); a manner database connected to said virtual-graveyard server, said manner database which stores a plurality of manner applets for grave visiting and manner fees each manners for grave visiting (col. 13, lines 29-31); a historical database connected to said virtual-graveyard server, said historical database which stores historical-data records including account result of grave visiting; and visitor terminals connected to said virtual-graveyard server via the Internet (Figures, col. 3, lines 28-36).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Olabode Akintola whose telephone number is 571-272-3629. The examiner can normally be reached on M-F 8:30AM -5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on 571-272-6747. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

OA



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